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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,299	06/22/2001	Siegfried Luft	4906.P016	6835
8791	7590	06/09/2006	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN			HSU, ALPUS	
12400 WILSHIRE BOULEVARD			ART UNIT	
SEVENTH FLOOR			PAPER NUMBER	
LOS ANGELES, CA 90025-1030			2616	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/887,299

Applicant(s)

LUFT ET AL.

Examiner

Alpus H. Hsu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-37 and 45-52 is/are allowed.
- 6) ☒ Claim(s) 5,6,8-11,13-26,29,30,38-40,43,44,53,54,56-59,61 and 62 is/are rejected.
- 7) ☒ Claim(s) 7,12,27,28,41,42,55 and 60 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/22/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's arguments, see Response, filed 04/03/2006, with respect to the rejections of claims 5, 6, 8-11, 13-26, 29, 30, 53, 54, 56-59, 61 and 62 over Raj et al., and the rejections of claims 38-40, 43 and 44 over Raj et al. in view of Duvvuru have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground of rejection is made in view of Shields et al. (US Patent No. 6,940,808 of record).
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 5, 6, 8-11, 13-26, 29, 30, 53, 54, 56-59, 61 and 62 are rejected under 35 U.S.C. 102(e) as being anticipated by Shields et al. (of record).

Regarding claims 5, 6, 8-11, 13-26, 29, 30, 53, 54, 56-59, 61 and 62, Shields discloses a machine-readable that provides instructions and a computer implemented method comprising: allocating a pipe from part of a working channel (Fig. 5A, 5B) and at least part of a protecting channel (Fig. 5A, 5B) of a span of a bi-directional line switched ring (BLSR) (col. 2, line 61 to col. 3, line 16), the pipe having a bandwidth; transmitting a set of layer 2/3 traffic in the pipe (col. 4, lines 21-23, 34-36); and reducing the pipe's bandwidth when a failure occurs in the ring (col. 4, lines 23-27, 36-41); wherein said set of layer 2/3 traffic is transmitted in the working channel part of the pipe while there is a failure and a second set of Layer 2/3 traffic is transmitted in the remaining protection channel part of the pipe while there is a failure (col. 10, lines 1-22).

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 38-40, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shields et al. in view of Duvvuru et al. (both of records).

Regarding claims 38-40, 43 and 44, Shields discloses a network element comprising: a control card (adaptive rate interface and switching circuitry) to allocate a pipe from a working channel and at least part of a protection channel to detect failures on the optical ring, and to reduce the pipe's bandwidth when a failure occurs and to restore the pipe's bandwidth while there is not a failure on the optical ring (col. 4, lines 17-55).

Shields differs from the claimed invention in that it does not teach an optical processing circuitry coupled with the control card, the optical processing circuitry to transmit and receive a set of optically switched traffic having a set of layer 2/3 traffic.

However, Duvvuru teaches a network element comprising: an optical processing circuitry (302, fig. 3) coupled with the control card to transmit and receive a set of optically switched traffic having a set of layer 2/3 traffic (col. 5, lines 21-30).

Therefore, it would have been obvious to use a network element of Duvvuru in the network of Shields in order to provide data transmission to/from different networks.

6. Claims 31-37, 45-52 are allowed.

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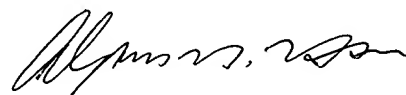
7. Claims 7, 12, 27, 28, 41, 42, 49, 50, 55 and 60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571)272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AHH



Alpus H. Hsu
Primary Examiner
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